

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
EVELYN ROCIO SANTANA,

Plaintiff,

-against-

ALISA ADLER, GARY ADLER, STUART ADLER,
MAURICE W. HELLER,

Defendants.

ANALISA TORRES, District Judge:

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 5/10/2018

17 Civ. 6147 (AT) (SDA)

**ORDER ADOPTING
REPORT AND
RECOMMENDATION**

Plaintiff *pro se*, Evelyn Rocio Santana, brought this action against Defendants *pro se*, Alisa Adler, Gary Adler, and Stuart Adler, and represented Defendant, Maurice W. Heller, alleging claims under the Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. § 1961 *et seq.*, arising from a dispute over the attempted sale of an apartment located on the Upper West Side of Manhattan and the purported loss of Plaintiff’s real estate commission. On November 15, 2017, Defendant Heller filed a motion to dismiss, ECF No. 31, which was joined by Defendants *pro se*, ECF Nos. 35–37.

On March 26, 2018, the Honorable Stewart D. Aaron issued a Report and Recommendation (“Report”), recommending that the motion to dismiss be granted and leave to amend be denied. Report at 1, 20, ECF No. 78. Judge Aaron found that Plaintiff’s substantive RICO claim and RICO conspiracy claim should be dismissed because Plaintiff failed to allege a pattern of racketeering activity, participation by each Defendant, and a cognizable injury to business or property caused by Defendants. *Id.* at 8–16. The Report also recommended that any state law claims should be dismissed, primarily because the Court should not exercise supplemental jurisdiction over them. *Id.* at 17. Finally, Judge Aaron recommended that leave to amend should not be granted where Plaintiff had amended her complaint after a case management conference, and where a liberal reading of the complaint did not reveal any possible basis for a federal claim. *Id.* at 20.

A district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). “Courts review *de novo* those parts of a report and recommendation to which objections are made, and the remainder for clear error on the face of the record.” *Mulosmanaj v. Colvin*, No. 14 Civ. 6122, 2016 WL 4775613, at *2 (S.D.N.Y. Sept. 14, 2016).

Here, Plaintiff filed no objections, and the deadline to do so, May 1, 2018, has passed. ECF No. 81. This Court has reviewed Judge Aaron’s thorough and well-reasoned Report and finds no clear error. *See* 28 U.S.C. § 636(b)(1). Accordingly, the Report is ADOPTED in its entirety, and Defendants’ motion to dismiss is GRANTED.

The Clerk of Court is directed to terminate the motion at ECF No. 32, close this case, and mail a copy of this order to Plaintiff *pro se*.

SO ORDERED.

Dated: May 10, 2018
New York, New York



ANALISA TORRES
United States District Judge